REMARKS/ARGUMENTS

These remarks are made in response to the Office Action of March 23, 2007 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. However, the Examiner is expressly authorized to charge any deficiencies to Deposit Account No. 50-0951.

Corrected Drawing Sheet

In the Office Action, Figure 2 was objected to as failing to comply with 37 CFR 1.84(p)(5). Applicants submit herewith a corrected drawing sheet labeled in the top margin as REPLACEMENT SHEET.

Amendments To Specification

Applicants have amended paragraphs [0025], [0031], [0041], [0042], [0045], and [0058] to address informalities noted at page 3 of the Office Action. The amendments do not introduce new matter. Paragraphs [0025], [0041], and [0042] were amended to correct certain errors in referring to numbered elements in the drawings and to maintain consistency throughout the Specification and with the drawings. Paragraph [0031], [0045], and [0058] were amended to include a description in plain text at each point in the Specification that an acronym is first used. Applicants thank the Examiner for pointing out these informalities.

Claim Amendments

Claim 18 was objected to due to certain informalities. Claims 6, 8, and 26 were rejected under 35 U.S.C. §112, second paragraph. Claims 1-28 were rejected under 35

U.S.C. § 102(e) as being anticipated by U.S. Published Patent Application 2004/0010588 to Slater, *et al.* (hereinafter Slater).

Applicants have amended independent Claims 1, 11, 18, and 19 to further emphasize certain aspects of the invention. The amendments also address the claim rejections under 35 U.S.C. § 112, second paragraph, with respect to Claims 6, 8, and 26, as well as the 35 U.S.C. § 112, sixth paragraph, raised with respect to Claim 18. Applicants also have amended Claim 8 to address 35 U.S.C. § 112, second paragraph, issue raised with respect to the claim.

The claim amendments, as discussed in the following section, are fully supported throughout the Specification. No new matter has been introduced by the claim amendments.

Aspects Of Applicants' Invention

It may be useful to reiterate certain aspects of Applicants' invention prior to addressing the cited reference. One embodiment of the invention, typified by amended Claim 1, is a method for serving applications.

The method can include sending component usage messages from each of a plurality of application components. (See, e.g., Specification, paragraph [0029], lines 1-2; see also paragraph [0046], lines 11-16.) More particularly, component usage messages can be sent from each of the application components intermittently and without prompting from any other system component. (See, e.g., Specification, paragraph [0032], lines 1-3.) Each component usage message, accordingly, can be generated by a corresponding one of the plurality of application components. (See, e.g., Specification, paragraph [0046], lines 11-20.)

Each component usage message, moreover, can specify activity information about the corresponding application component. (See, e.g., Specification, paragraph [0032],

lines 1-5.) In particular, the activity information can specify the number of users accessing the corresponding application component, the number of requests received by the corresponding application component within a predetermined time interval, and/or the rate at which resources of the corresponding application component are used. (See, e.g., Specification, paragraph [0029], lines 1-11.)

The method also can include receiving at least one component status publication. The component status publication, moreover, can be generated based upon activity information specified in at least one of the component usage messages. (See, e.g., Specification, paragraph [0032], lines 3-5.) Each component status publication, accordingly, can specify a usage level for an application component;

Additionally, the method can include acquiring a client request and selecting, from among a plurality of possible server responses based at least in part upon the component status publications, a server response for the client request. The method further can include then responding to the client request with the selected server response.

The Claims Define Over Slater

As already noted, independent Claims 1, 11, 18, and 19 were each rejected as being anticipated by Slater. Slater is directed to a method of "serving out video over a network of video servers," the method including "evaluating a capacity of the network as a whole." (Abstract.)

Applicants respectfully submit, however, that Slater fails to expressly or inherently teach each feature recited in Claims 1, 11, 18, and 19, as amended. For example, Slater does not teach the use of activity information contained in component usage messages sent intermittently and without prompting from each of a plurality of distinct application components. Slater takes an entirely different approach from that of Applicants' invention. In portions of the reference cited in the Office Action, Slater describes

conventional load balancing techniques whereby a "director server" attempts to find a server "capable of servicing a request," either by soliciting information from a plurality of servers or alternatively by assessing the time it takes each server to respond to an "investigatory signal" sent by the director server. Specifically, in the cited portion, Slater describes the following:

> "Load balancing (that is, directing,a specific request for a specific resource to be served out to a specific chosen server on the web tier) can be used to attempt to provide a better, faster, service to users of the World Wide Web. For example, "IP Virtual Server" software exists for Linux. Current web-based load balancing techniques for balancing the load between web tier servers are rudimentary and in one known version of load balancing, involve a principal server, router, or director server. Requests for data are distributed to a series of identical data content servers sequentially in turn until a server capable of servicing the request is found. The director server is looking for a server with the processing power available to service the request for data. The director server performs this function by asking a series of servers in "Round-Robin" until it finds one capable of servicing the request. In an alternative load-balancing technique for web tier servers, the director server (or router) sends an investigatory signal to the web tier servers and assesses which server had the quickest response time. The director server then directs the request to be serviced to the web tier data content server that provided the fastest reply. This technique of measuring response time is primarily a measure of the telecommunication links to the web tier servers, that is, the capacity of the telecom links is the major factor in determining response time. Depending upon whether or not the data

content web tier server has a dedicated IC (interface card), the response time can be slightly influenced by how busy the CPU of the web tier server is. However, telecom factors usually far outweigh this." (Para. [0005], lines 1-29.)

Neither the director server's solicitation of information nor the assessment of how long it takes a server to respond to a signal sent by the director server teaches the features recited in amended Claims 1, 11, 18, and 19. With Applicants' invention, as recited in the claims, each of a plurality of application components sends component usage messages intermittently and without prompting. Thus, with Applicants' invention no solicitation or prompting is necessary, as described in Slater. Likewise, the component usage messages are not sent in response to an "investigatory signal;" again, they are sent intermittently and without prompting.

Moreover, although Slater speaks generally to the issue of bandwidth and resource capability, Slater nowhere describes the utilization of activity information of the type recited in amended Claims 1, 11, 18, and 19. Specifically, Slater nowhere describes the unsolicited sending of component usage messages that contain activity information that includes one or more of the following activity indicators: the number of users accessing the corresponding application component; the number of requests received by the corresponding application component within a predetermined time interval; or the rate at which resources of the corresponding application component are used.

It follows that Slater does not describe the generation of component status publications generated on the basis of the activity information specified in one or more of the component usage messages whereby each such component status publication specifies a usage level for a corresponding application component, as further recited in amended Claims 1, 11, 18, and 19. Neither a director server's prompting for server

information nor the assessment of a server's time in responding to an investigatory signal sent by the director server teaches, expressly or inherently, this feature.

Accordingly, Slater fails to expressly or inherently teach every feature recited in independent Claims 1, 11, 18, and 19, as amended. Applicants respectfully submit, therefore, that the claims define over the prior art. Applicants further respectfully submit that, whereas each of the remaining claims depends from Claim 1, 11, 18, or 19, these dependent claims likewise define over the prior art.

CONCLUSION

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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